

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO. 05-10489-MEL

GLENN S. BATES,

Plaintiff

v.

TOWN OF HARWICH AND HARWICH
POLICE DEPARTMENT, CHRISTOPHER
KENDER, AND BARRY MITCHELL,

Defendants

DEFENDANTS CHRISTOPHER KENDER
AND BARRY MITCHELL'S MOTION
FOR LEAVE TO SUBMIT BRIEF IN
EXCESS OF 20 PAGES

Now come defendants Christopher Kender and Barry Mitchell, and hereby move for leave of court to file a Memorandum in Support of their Motion for Summary Judgment in excess of 20 pages.¹ Specifically, defendants seek to submit a Memorandum 23 pages in length. As grounds therefor, defendants state as follows:

1. In this matter, plaintiff alleges, inter alia, use of excessive force and due process violations by Kender and Mitchell, police officers for the Town of Harwich, arising from an encounter which resulted in the shooting of plaintiff. Plaintiff alleges use of excessive force by the officers with respect to both the shooting, and the officers' conduct following the shooting.

2. The plaintiff asserts his claims pursuant to 42 U.S.C., §1983 and G.L. c.12, §§H-I185, the Massachusetts Civil Rights Act. The Amended Complaint also includes claims for assault and battery and intentional infliction of emotional distress against the officers.

3. Defendants submit that a memorandum of 23 pages is necessary to fully and adequately address the complex factual and legal issues presented in this matter; that an adequate

¹The Motion for Summary Judgment and supporting Memorandum were provisionally filed on November 15, 2006.

and reasoned briefing of all issues cannot be accomplished in a brief of shorter length; and, further, that allowance of this motion will not prejudice the plaintiff.

4. Given the nature and complexity of plaintiff's claims, and in light of the fact that each defendant would be entitled to file a brief of up to 20 pages in support of his summary judgment motion, defendants Kender and Mitchell respectfully submit that this Court should allow them to exceed the page limit for summary judgment briefs by three pages.

WHEREFORE, in view of the foregoing, it is respectfully requested that the within motion be allowed.

DEFENDANTS

CHRISTOPHER KENDER
AND BARRY MITCHELL,

By their attorneys,

/s/Jackie Cowin
Joseph L. Tehan, Jr. (BBO# 494020)
Jackie Cowin (BBO# 655880)
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CERTIFICATE OF SERVICE

I, Jackie Cowin, certify that the above document will be served upon any party or counsel of record who is not a registered participant of the Court's ECF system, upon notification by the Court of those individuals who will not be served electronically. /s/Jackie Cowin

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